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PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Huffman  
Serial No.: 09/847,794  
Filed: May 2, 2001  
For: SYSTEMS AND METHODS FOR PROVIDING PERFORMANCE  
FEEDBACK TO A CASHIER AT A POINT-OF-SALE TERMINAL  
Group: 3623  
Examiner: Jarrett, Scott L.

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Durham, North Carolina  
February 9, 2006

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

## CERTIFICATION OF FACSIMILE TRANSMISSION

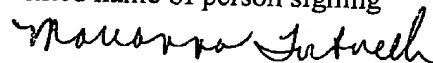
Sirs:

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax. No. 571-273-8300 on the date set forth below

1. Transmittal of Appeal Brief (2 pages);
2. Appellant's Brief (21 pages).

Marianna Tortorelli

Printed name of person signing



Signature

Date: February 9, 2006

**RECEIVED  
CENTRAL FAX CENTER****FEB 09 2006****PATENT**500.0117  
8830**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of : Huffman  
For : Systems and Methods for Providing  
Performance Feedback to a Cashier at a  
Point-of-Sale Terminal  
Serial No. : 09/847,794  
Filed : 05/02/2001  
Group : 3623  
Examiner : Jarrett, Scott L.

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Durham, North Carolina  
February 9, 2006

**MAIL STOP APPEAL BRIEF - PATENTS**  
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Alexandria, VA 22313-1450

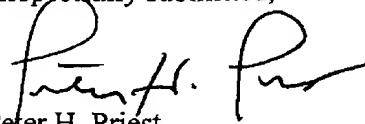
**TRANSMITTAL OF APPEAL BRIEF**

Sir:

1. Transmitted herewith is the APPEAL BRIEF in this application with respect to the Notice of Appeal filed on December 14, 2005.
2. The Applicant is other than a small entity.
3. Pursuant to 37 CFR 1.17(f) the fee for filing the Appeal Brief is \$ 500.00  
[ x ] The Commissioner is hereby authorized to charge the Appeal Brief fee to Deposit Account No. 14-0225.
4. [ x ] The Commissioner is hereby authorized to charge any additional fees which may be required including any fee for extension of time or credit any overpayment to Deposit Account No. 14-0225. Should such an

extension become due, this letter constitutes a petition requesting same

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter H. Priest". The signature is fluid and cursive, with a large initial "P" and a long, sweeping underline.

Peter H. Priest

Reg. No. 30,210

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MAIL STOP APPEAL BRIEF – PATENTS  
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APPELLANT'S BRIEF

Sir:

1. The Real Party In Interest

The real party in interest is the assignee, NCR Corporation.

2. Related Appeals and Interferences

None.

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3. Status of the Claims

This is an appeal from the September 16, 2005 final rejection of claims 1-18, all of the pending claims. Claims 1-18 were rejected under 35 U.S.C. § 103(a) as unpatentable over Latimer et al. U.S. Patent No. 6,857,567 ("Latimer") in view of Berkson U.S. Patent No. 6,049,779 ("Berkson") and further in view of Nashner U.S. Patent No. 5,980,429 ("Nashner"). Pending claims 1-18 are the subject of this appeal.

4. Status of Amendments

The claims stand as last amended on November 9, 2005 in response to a final Action mailed September 16, 2005. These amended claims were entered for purposes of this Appeal in the Advisory Action mailed November 28, 2005.

5. Summary of Claimed Subject Matter

As stated in the description of the prior art section, it is known that one way to motivate employees to perform their tasks as efficiently as possible is to provide them with ongoing feedback as to their level of performance. At the time of the present invention, point of sale terminals did not provide immediate feedback directly to a cashier on his or her performance.

With this context in mind, we turn to one aspect of the present invention. Pursuant to this aspect, claim 1 is directed to a point of sale (POS) terminal (e.g., Fig. 1, element 12) for providing feedback to a cashier operating the POS terminal. The POS terminal (e.g., Fig. 1, element 12) includes a display for displaying information (e.g., Fig. 4, elements 144, 146, and 148) to a cashier operating the POS terminal. The display (e.g., Fig. 1, element 18) displays a performance goal screen (e.g., Fig. 4, element 140) at the start of a work session, indicating to the cashier a performance goal for the work session. The work session begins when the cashier logs onto the POS terminal and ends when the cashier logs off the POS terminal. See, e.g.,

specification, p. 6, line 15 – p. 7, line 13 and Fig. 3, element 120. The POS terminal operates to measure the cashier's performance of tasks during the work session. See, e.g., specification, p. 6, lines 14-17. One measured task, for example, is the number of items scanned per unit time. See, e.g., specification, p. 6, line 17. At the end of the work session, the display (e.g., Fig. 1, element 18) displays a performance report screen (e.g., Fig. 5, element 160) including the cashier's measured performance (e.g., Fig. 5, elements 170 and 172) and the performance goal (e.g., Fig. 5, element 168) to provide performance feedback directly to the cashier. See, e.g., specification, p. 3, lines 5-7.

Turning to another aspect of the present invention, claim 11 addresses a method for providing feedback to a cashier operating a POS terminal (e.g., Fig. 1, element 12). The method includes the step of displaying (e.g., Fig. 6, step 188) a performance goal screen (e.g., Fig. 4, element 140) at the start of a work session, indicating to the cashier a performance goal for the work session. See, specification, e.g., p. 10, lines 8-11. The work session begins at the time the cashier logs onto the POS terminal and ends at the time the cashier logs off the POS terminal. See, e.g., specification, p. 6, line 15 – p. 7, line 13 and Fig. 3, element 120. The method also includes the step of measuring the cashier's performance of tasks during the work session. See, e.g., Fig. 6, step 188. One measured task, for example, is the number of items scanned per unit time. See, e.g., specification, p. 6, line 17. The method further includes the step of displaying (e.g., Fig. 6, step 196) at the end of the work session a performance report screen including the cashier's measured performance (e.g., Fig. 5, elements 170 and 172) and the performance goal (e.g., Fig. 5, element 168) to provide performance feedback directly to the cashier. See, e.g., specification, p. 3, lines 5-7.

Turning to another aspect of the present invention, claims 4 and 14 address integrating

the performance goal screen and the performance report screen into the operation of a general POS application. See, e.g., specification, p. 10, line 17 – p.11, line 8 and Fig. 7.

6. Grounds of Rejection to be Reviewed on Appeal

Claims 1-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Latimer in view of Berkson and further in view of Nashner.

7. Argument

The final rejection under 35 U.S.C. § 103 did not follow M.P.E.P. § 706.02(j) which states:

After indicating that the rejection is under 35 U.S.C. 103, the Examiner should set forth...the difference or differences in the claim over the applied reference,...the proposed modification of the applied reference(s) necessary to arrive at the claimed subject matter, and ... an explanation why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.

As will be illustrated below, the claims of the present invention are not obvious in view of the references relied upon by the Examiner.

A. Rejection under 35 U.S.C. § 103(a) over Latimer in view of Berkson and Nashner

The art rejections are not supported by the relied upon art. All of the rejections are based on Latimer, Berkson, and Nashner. 35 U.S.C. § 103 which governs obviousness indicates that “differences between the subject matter sought to be patented and the prior art” are to be assessed based upon “the subject matter as a whole”. Analyzing the entirety of each claim, the rejections under 35 U.S.C. § 103 are not supported by the relied upon art as addressed further below. Only after an analysis of the individual references has been made can it then be considered whether it is fair to combine teachings. However, as addressed further below, fairness requires an analysis of failure of others, the lack of recognition of the problem, and must

avoid the improper hindsight reconstruction of the present invention. Such an analysis should consider whether the modifications are actually suggested by the references rather than assuming they are obvious. The 35 U.S.C. § 103 rejections made here pick and choose elements from two separate references, neither of which presents any motivation for making the suggested combination. This approach constitutes impermissible hindsight and must be avoided. As required by 35 U.S.C. § 103, claims must be considered as a whole. When so considered, the present claims are not obvious.

Turning to the references relied upon, Latimer, Berkson, and Nashner are markedly different from the present invention and address problems only peripherally related to the solutions provided by the present invention. Latimer addresses a scanner for gathering information about an operator's scanning technique. Latimer, col. 1, lines 45-48. Referring to Fig. 1, Latimer's scanner has two ports 45 and 47 which may be used to configure the scanner to operate in a "training mode" or in a "monitor mode." In the training mode, the scanner is connected to a personal computer (PC) 43 to gather information about the operator's scanning technique. Latimer, col. 3, lines 26-32 and Fig. 2. While in the training mode, a PC application may also provide feedback information concerning the operator's scanning technique to the operator. In the monitor mode, the scanner is connected to a POS terminal to continuously monitor the operator's scanning technique to provide management reports of the same. Latimer, col. 3, lines 50-60, col. 6, line 64 – col. 7, line 5, and Fig. 3. Latimer's scanner does not disclose displaying a performance goal for a work session to a cashier and does not disclose displaying the cashier's measured performance over the work session to the cashier as claimed.

Berkson fails to cure the deficiencies of Latimer. Berkson addresses a system that provides positive incentives to a call center agent by allowing the call center agent to play a

game each time an established performance parameter standard is met. Berkson, col. 2, lines 39-42. To this end, Berkson discloses a data collection system and a game participation system in combination with an automatic call distribution (ACD) system. The data collection system monitors a performance parameter of a telephone call handled by a call center agent. The game participation system compares a measure of the monitored performance parameter to an established performance parameter standard and allows the call center agent to participate in a game only if the performance measure meets or exceeds the established performance parameter standard. At the completion of the call by a call center agent, the system automatically generates measurements of length of time of the call and revenue generated, for example, and compares these performance measurements to established performance parameter standards such as a maximum call time of seven minutes and a minimum of \$25 in revenue. If both of these standards are accomplished, the call center agent is automatically allowed to participate in a game. Berkson does not display a performance report gained over a work session which includes a cashier's performance goal and measured performance of tasks, such as scanning items, by the cashier operating a POS terminal as claimed.

Nashner addresses a system and method of monitoring the effectiveness of a training program such as an exercise program used for physical rehabilitation in order to determine whether changes to the training program need to be made. Nashner, col. 4, lines 18-27 and col. 8, lines 12-21. Fig. 1 of Nashner illustrates a basic system which a prescriber may use when developing an individualized training program. The prescriber determines the initial conditions and an assessment 100 of the present capabilities of a subject is made. The assessment involves determining the current skill level of the individual subject and deciding the overall performance goals to be achieved within the scope and duration of training of the subject. The specific

training program may then be created 101 consisting of one or more tasks defining the expected performance in terms of quality and quantity of executed tasks. Progress toward performance goals is, then actively monitored 102 by the prescriber by comparing actual task performance with quality and quantity expectations 103. Nashner, col. 4, lines 43-60. The Nashner system monitors the effectiveness of the training program rather than a cashier's performance as claimed.

#### Claims 1 and 11

In stark contrast to the relied upon art, the present invention addresses a POS terminal that provides feedback directly to a cashier regarding his or her performance during a work session. The present invention includes a display for displaying a performance goal screen at the start of a work session, a POS terminal for measuring the cashier's performance during the work session. The display also displays at the end of the work session a performance report screen including the cashier's measured performance and the performance goal to provide feedback directly to the cashier. Claim 1 reads as follows:

1. A point of sale (POS) terminal for providing feedback to a cashier operating the POS terminal, the POS terminal comprising:  
a display for displaying information to the cashier operating the POS terminal, the display displaying a performance goal screen at the start of a work session to indicate to the cashier a performance goal for the work session, the work session beginning at the time the cashier logs onto the POS terminal and ending at the time the cashier logs off the POS terminal; and  
the POS terminal operating to measure the cashier's performance of tasks during the work session, the tasks comprising the number of items scanned per unit time, the display displaying at the end of the work session a performance report screen including the cashier's measured performance and the performance goal to provide performance feedback directly to the cashier. (emphasis added)

Latimer, Berkson, and Nashner, taken separately or in combination, do not teach and do not suggest "the display displaying a performance goal screen at the start of a work session to

indicate to the cashier a performance goal for the work session, the work session beginning at the time the cashier logs onto the POS terminal and ending at the time the cashier logs off the POS terminal,” as claimed in claim 1. Furthermore, Latimer, Berkson, and Nashner, taken separately or in combination, do not teach and do not suggest “the POS terminal operating to measure the cashier’s performance of tasks during the work session ... the display displaying at the end of the work session a performance report screen including the cashier’s measured performance and the performance goal to provide performance feedback directly to the cashier,” as claimed in claim 1. See also claim 11.

Latimer, during training mode, merely provides limited feedback of an operator’s scanning technique. Additionally, such scanning technique is apparently measured and only fed back to the operator during the training mode. During the monitor mode, Latimer discloses providing limited feedback through a display containing a plurality of lamps which are lighted depending on the effectiveness of the operator’s scanning technique for an individual item. The operator’s scanning performance is reported to management and not directly to the operator. See, Latimer col. 6, line 64 – col. 7, line 5. Regardless of the training system used for teaching a proper scanning technique as taught in Latimer, Latimer appears to merely describe the state of the art of a back office report-based POS application upon which the present invention improves as discussed in the present specification at page 3, lines 5 and 6, for example.

The final Action relies upon col. 6, lines 51-63 and Fig. 4 of Latimer as purportedly displaying to the cashier a performance report indicating the cashier’s measured performance. Applicant respectfully disagrees. At the cited portion of text, Latimer merely discloses providing feedback to the operator during a training mode configuration after the “last training item is scanned.” Such disclosure fails to address the performance of a cashier during a work session

“beginning at the time the cashier logs onto the POS terminal and ending at the time the cashier logs off the POS terminal,” as claimed in claims 1 and 11.

The final Action relies on Berkson at col. 2, lines 43-45 and col. 6, lines 31-49 for purportedly monitoring and measuring the operator’s performance during a work session. Applicant respectfully disagrees. At the cited portion of text, Berkson discloses a data collection system which collects and stores specified telephone call related information corresponding to an ACD agent’s performance. Despite the Official Action’s suggestion, it is hard to imagine a working combination of a training scanner as taught by Latimer and an ACD environment as suggested by the duplication of Berkson’s Fig. 1 in the Official Action. Even if such a combination worked, which Applicant believes it would not, the combination would still fail to meet the features of the claims.

The final Action further relies on Berkson at col. 1, lines 21-68 as purportedly teaching that the collection and reporting of operator performance as well as systems for motivating operators based on performance feedback including a display of an operator’s current performance is old and well known in the art. Applicant respectfully disagrees. At the cited portion of text, Berkson discloses other art examples involving performance tracking of call center agents. None of the examples involve performance monitoring of or feedback provided to a cashier at a POS terminal in the manner claimed. The specific examples of performance monitoring of an agent’s handling of telephone calls in an ACD environment does not preclude patentability of performance monitoring of a cashier at a POS terminal during a work session and displaying a cashier’s measured performance with the cashier’s performance goal as claimed.

As admitted by the Examiner at page 6 of the final Action, Latimer and Berkson do not teach displaying a performance goal at the start of the work session as claimed. Nashner fails to

cure the deficiencies of Latimer and Berkson. Nashner addresses a system and method of monitoring the effectiveness of a training program rather than the measured performance of a cashier operating a POS terminal as claimed. Nashner, col. 4, lines 18-27. To this end, progress towards performance goals is monitored by a prescriber and not the individual subject pursuing the performance goals. Nashner, col. 4, lines 55-60. Nashner even if considered relevant, like Latimer, merely describes the state of the art of a back office report upon which the present invention improves as discussed in the present specification at page 3, lines 5 and 6, for example.

The final Action as well as the Advisory Action relies on Nashner at col. 3, lines 32-35, col. 4, lines 12-27 and Fig. 1 as purportedly displaying performance targets/goals prior to and during a training session. Applicant disagrees on two bases. First, the present invention addresses a cashier's performance at a POS terminal during a work session, not a training session as disclosed in Nashner. Second, at col. 3, lines 32-35, Nashner merely discloses a general principle of education that a trainee striving to achieve a clearly defined, objective goal while receiving periodic objective feedback relative to his or her progress is the best motivated. At col. 4, lines 12-27, Nashner describes monitoring a training program's effectiveness by comparing actual performance and previous performance by the same subject. Neither of these cited portions of text involve a display for "displaying at the end of the work session a performance report screen including the cashier's measured performance and the performance goal to provide performance feedback directly to the cashier," as presently claimed in claim 1. Combining Nashner with Latimer and Berkson as suggested would still fail to meet the features of the claim. At best, such a combination would result in testing the effectiveness of Latimer's dual mode scanner and have nothing to do with monitoring the performance of scanning during a cashier's work session and then displaying both the measured performance and the performance goal to a

cashier at a POS terminal as claimed.

The Advisory Action solely focuses on the second point above while ignoring the merits of the other arguments expressed above. The Examiner states that Nashner suggests that providing goals to trainees so that they know what is expected of them and know how they are doing in reference to those goals are old and very well known training/motivational principle utilized by any number of performance feedback systems and methods. Even if this suggestion is true, Nashner's system does not display performance feedback of a cashier directly to the cashier in the manner as claimed. It merely provides feedback on a training program to a prescriber of the training program. The Examiner further states that Nashner teaches the creation of individualized performance programs for individual users wherein individual performance goals are set for each user based on individual's and/or group's historical performance. Although this may be true in the different context addressed by Nashner, Nashner still fails to teach and fails to suggest a display "displaying at the end of the work session a performance report screen including the cashier's measured performance and the performance goal to provide performance feedback directly to the cashier," as claimed in claims 1 and 11.

Latimer, Berkson, and Nashner, taken separately or in combination, do not teach and do not suggest "the display displaying a performance goal screen at the start of a work session to indicate to the cashier a performance goal for the work session, the work session beginning at the time the cashier logs onto the POS terminal and ending at the time the cashier logs off the POS terminal," as presently claimed in claim 1. The Official Action takes official notice that operator sessions typically start with the operator logging onto a system enabling the system to recognize/authorize the operator to use the system. While this much may be true, it does not meet the present claims or make them obvious, and provides no basis for modifying the relied

upon art. If anything, that such logging on is well known and the art fails to build thereupon is evidence of the patentability of the present claims rather than their obviousness.

As described above, the work session provides a time frame over which a cashier's performance is measured and a performance goal is compared against the measured performance. The work session begins at the time the cashier logs on to a POS terminal and ends at the time the cashier logs off the POS terminal as presently claimed.

Furthermore, Latimer, Berkson, and Nashner, taken separately or in combination, do not teach and do not suggest "the POS terminal operating to measure the cashier's performance of tasks during the work session ... the display displaying at the end of the work session a performance report screen including the cashier's measured performance and the performance goal to provide performance feedback directly to the cashier," as claimed in claim 1.

#### Claims 4 and 14

With respect to claims 4 and 14, the final Action relies on Latimer at col. 3, lines 26-33, col. 8, line 66 – col. 9, line 13 and Fig. 2 as teaching a cashier performance feedback system and method wherein the system runs a general POS application and the performance report is integrated into the general POS application. Applicant respectfully disagrees. At the cited portion of text, Latimer describes incorporating a separate graphical display into a scanner housing or connecting an add-on module 82 or a notebook computer 90 as shown in Fig. 13 of Latimer. According to the present specification at p. 3, lines 16-17, the general POS application as claimed is a software POS application. As such, the display of the performance goal and report screens are integrated into the flow of the general POS application as illustrated as steps 210 and 214, for example. Latimer's suggested aggregation of add-on hardware components do not teach and do not suggest a general POS application "wherein the performance goal screen

and the performance report screen are integrated into the operation of the general POS application,” as claimed in claim 4. Furthermore, the aggregation of hardware components as taught by Latimer stands for a teaching away from integration of performance screens into a general POS software application as claimed in claims 4 and 14.

Overall, Applicant is somewhat puzzled by the Examiner’s response to the previously submitted arguments and the apparent refusal of the Examiner to consider both the plain language and the context of the present claims. The relied upon references do not teach and do not render obvious “the display displaying a performance goal screen at the start of a work session to indicate to the cashier a performance goal for the work session, the work session beginning at the time the cashier logs onto the POS terminal and ending at the time the cashier logs off the POS terminal,” as claimed in claim 1. Furthermore, the relied upon references do not teach and do not render obvious “the POS terminal operating to measure the cashier’s performance of tasks during the work session ... the display displaying at the end of the work session a performance report screen including the cashier’s measured performance and the performance goal to provide performance feedback directly to the cashier,” as claimed in claim 1.

To sum up, the relied upon references do not show and do not suggest a system and method for providing feedback to a cashier operating the POS terminal as presently claimed. Nothing in the cited references indicates a recognition of the problem of measuring a cashier’s performance during a work session and displaying a performance report screen including the cashier’s measured performance and performance goal directly to the cashier as addressed by the present invention. Further, nothing in the cited references indicates a system which would solve

the problems addressed by the present invention. The claims of the present invention are not taught, are not inherent, and are not obvious in light of the art relied upon.

C     The Examiner's Findings of Obviousness are  
Also Contrary to Law of the Federal Circuit

As shown above, the invention claimed is not suggested by the relied upon prior art. The references cited by the Examiner, if anything, teach away from the present invention. It is only in hindsight, after seeing the claimed invention, that the Examiner could combine the references as the Examiner has done. This approach is improper under the law of the Federal Circuit, which has stated that “[w]hen prior art references require selective combination by the Court to render obvious a subsequent invention, there must be some reason for the combination other than the hindsight gleaned from the invention itself.” Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 U.S.P.Q. 2d 1434, 1438 (Fed. Cir. 1988), cert. den., 109 S. Ct. 75, 102 L.Ed. 2d 51 (1988); quoting Interconnect Planning Corp. v. Feil, 774 F.2d 1132, 1132, 227 U.S.P.Q. 543, 535 (Fed. Cir. 1985). Furthermore, “[i]t is impermissible to use the claims as a frame and the prior art references as a mosaic to piece together a facsimile of the claimed invention.” Uniroyal, 837 F.2d at 1051, 5 U.S.P.Q. 2d at 1438. Similarly, “[t]he mere fact that the prior art could be so modified would not have made the modification obvious unless the prior art suggested the desirability of the modification.” In re Laskowski, 871 F.2d 115, 117, 10 U.S.P.Q. 2d 1397, 1398 (Fed. Cir. 1989), quoting In re Gordon, 733 F.2d 900, 902, 221 U.S.P.Q. 1125, 1127 (Fed. Cir. 1984). No such suggestion is found here.

In addition, the Examiner does not appear to have considered “where the references diverge and teach away from the claimed invention”, Akzo N.V. v. International Trade Commission, 808 F.2d 1471, 1481, 1 U.S.P.Q. 2d 1241, 1246 (Fed. Cir. 1986), cert. den., 107 S. Ct. 2490, 482 U.S. 909, 107 S.Ct. 2490 (1987); and W.L. Gore Associates, Inc., 721 F.2d 1540,

220 U.S.P.Q. 303 (Fed. Cir. 1983); nor has the Examiner read the claims as a whole, as required by statute. 35 U.S.C. §103. See also, Smithkline Diagnostics Inc. v. Helena Laboratories Corp., 859 F.2d 878, 885, 8 U.S.P.Q. 2d 1468, 1475 (Fed. Cir. 1988); and Interconnect Planning Corp., 774 F.2d at 1143, 227 U.S.P.Q. at 551.

In In re Laskowski, 871 F.2d 115, 10 U.S.P.Q. 2d 1397, the Federal Circuit reversed an obviousness rejection of the claims in an application for a bandsaw. The claimed bandsaw used a pulley type wheel loosely fitted with a tire. The primary reference showed a similar bandsaw where the band was tightly fitted. The Federal Circuit stated that the prior art did not provide a suggestion, reason or motivation to make the modification of the reference proposed by the Commissioner. Id. at 1398. The Court added that “there must be some logical reason apparent from the positive, concrete evidence of record which justifies a combination of primary and secondary references.” Id. quoting In re Regel, 526 F.2d 1399, 1403, 188 U.S.P.Q. 136, 139 (C.C.P.A. 1975), citing In re Sternniski, 444 F.2d 581, 170 U.S.P.Q. 343 (C.C.P.A. 1971).

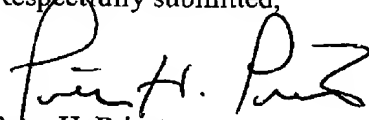
In Uniroyal Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 5 U.S.P.Q. 2d 1434 (Fed. Cir. 1988), cert. den., 109 S. Ct. 75, 102 L.Ed. 2d 51 (1988), the Federal Circuit reversed the District Court’s finding that the claims for a patent for an air flow deflecting shield were obvious. Without any suggestion in the art, the District Court improperly chose features from several prior art references to recreate the claimed invention.

The Examiner’s rejection suggests that the Examiner did not consider and appreciate the claims as a whole. The claims disclose a unique combination with many features and advantages not shown in the art. It appears that the Examiner has oversimplified the claims and then searched the prior art for the constituent parts. Even with the claims as a guide, however, the Examiner did not recreate the claimed invention.

9. Conclusion

The rejection of claims 1-18 should be reversed and the application promptly allowed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Peter H. Priest", written over the typed name.

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CLAIMS APPENDIX  
(Claims Under Appeal)

1. A point of sale (POS) terminal for providing feedback to a cashier operating the POS terminal, the POS terminal comprising:

a display for displaying information to the cashier operating the POS terminal, the display displaying a performance goal screen at the start of a work session to indicate to the cashier a performance goal for the work session, the work session beginning at the time the cashier logs onto the POS terminal and ending at the time the cashier logs off the POS terminal; and

the POS terminal operating to measure the cashier's performance of tasks during the work session, the tasks comprising the number of items scanned per unit time, the display displaying at the end of the work session a performance report screen including the cashier's measured performance and the performance goal to provide performance feedback directly to the cashier.

2. The system of claim 1, wherein the performance goal displayed to the cashier on the performance goal screen is set for each individual cashier using the POS terminal.

3. The system of claim 2, wherein the performance goal is determined using historical performance data for each individual cashier.

4. The system of claim 1, wherein the POS terminal runs a general POS application, and wherein the performance goal screen and the performance report screen are integrated into the operation of the general POS application.

5. The system of claim 4, wherein the performance goal screen is displayed to the cashier when the cashier logs into the general POS application.

6. The system of claim 5, wherein the POS terminal returns to the general POS application from the performance goal screen upon receiving an input from the cashier.

7. The system of claim 6, wherein the performance goal screen is provided with an on-screen button that, when actuated, returns the POS terminal to the general POS application.

8. The system of claim 4, wherein the performance report screen is displayed to the cashier when the cashier logs out of the general POS application.

9. The system of claim 1, wherein the POS terminal is connected into a network, the performance goal screen and performance report screen being generated by a POS motivator software application including a front end that is run on each POS terminal in the network and a back end that is run on a central server computer in the network, the back end of the POS motivator software application being used to set up performance goals for each cashier using a POS terminal in the network.

10. The system of claim 9, wherein the network includes an administrator terminal operated by a system administrator who sets the performance goals for each cashier using a POS terminal in the network.

11. A method for providing feedback to a cashier operating a POS terminal, comprising:

displaying a performance goal screen at the start of a work session, indicating to the cashier a performance goal for the work session, the work session beginning at the time the cashier logs onto the POS terminal and ending at the time the cashier logs off the POS terminal;

measuring the cashier's performance of tasks during the work session, the tasks comprising the number of items scanned per unit time; and

displaying at the end of the work session a performance report screen including the cashier's measured performance and the performance goal to provide performance feedback directly to the cashier.

12. The method of claim 11, further including:

setting a performance goal screen for each individual cashier using the POS terminal.

13. The method of claim 12, further including:

determining the performance goal for each individual cashier using historical performance data for each individual cashier.

14. The method of claim 11, further including:

integrating the performance goal screen and the performance report screen into the operation of a general POS application run by the POS terminal.

15. The method of claim 14, wherein the step of displaying the performance goal screen to the cashier is performed when the cashier logs into the general POS application.

16. The method of claim 14, wherein the step of displaying the performance report screen to the cashier is performed when the cashier logs out of the general POS application.

17. The method of claim 11, further including:

connecting the POS terminal into a network, the performance goal screen and performance report screen being generated by a POS motivator software application including a front end that is run on each POS terminal in the network and a back end that is run on a central server computer in the network, the back end of the POS motivator software application being used to set up performance goals for each cashier using a POS terminal in the network.

18. The method of claim 17, further including:

using an administrator terminal to set the performance goals for each cashier using a POS terminal in the network.

## EVIDENCE APPENDIX

None.

## RELATED PROCEEDINGS APPENDIX

None.